

**STAFF REPORT
ZONING BOARD OF ADJUSTMENT
Thursday, January 25, 2018
9:00 a.m.
Room 105 Courthouse Annex
Cascade County Commissioners Chambers**

SUP #14-17

Subject Property Information

Name & Address of Applicant	Lyle Meeks NCI Engineering Co. 4509 N Star Blvd Great Falls, MT 59405
Name & Address of Owner	South Wind Water and Sewer District 1140 Patterson Ave Great Falls, MT 59405
Geo Code:	3015-36-1-01-06
Parcel Number:	2193100
Existing Zoning:	Suburban Residential 2 (SR2)
Legal Description:	Section 36, Township 20 N, Range 3 E
Requested Action and Purpose:	Utility Installation, Minor
Total Land Area:	2.28 Acres
Adjacent Land Uses & Zoning:	North: Suburban Residential 2 South: Suburban Residential 2 West: Suburban Residential 2 East: Suburban Residential 2
Current Land Use:	Vacant/Undeveloped land
Applicable Regulations:	Sections 7.1.1.3 and 10 of the Cascade County Zoning Regulations

General Information:

The Cascade County Zoning Board of Adjustment is in receipt of a Special Use Permit application from NCI Engineering Co. to establish a minor utility installation for waste water treatment.

10.1 General Provisions

A special use is a use for which conformance to additional standards will be required and shall be deemed to be a permitted use in its respective district, subject to the standards and requirements set forth herein, in addition to other applicable requirements of these regulations. All such uses are hereby said to possess characteristics of such unique and special forms that each specific use shall be considered as an individual case.

A special use permit may be issued only upon meeting all requirements in these regulations for a specific use which is explicitly mentioned as one of the "Uses Permitted Upon Issuance of a Special Use Permit as Provided in Section 10" within the respective zoning districts contained in Section 7 or Section 8.1.5 hereof. After the public hearing is closed, the Zoning Board of Adjustment can approve, deny, or approve with conditions the Special Use Permit. A separate Special Use Permit shall be required per each tract of land. The Special Use Permit fee shall be \$450.00.

10.4 Expiration

The Zoning Board of Adjustment approval of the Special Use Permit shall be valid for only one particular use and shall expire one year after the date of approval, if construction or the use has not started. The Zoning Administrator may grant a one time only six (6) month extension of the Zoning Board of Adjustment approval.

The Special Use Permit shall expire if the use ceases for six (6) months for any reason. Any further extension requests must be granted by the Zoning Board of Adjustment prior to the date of expiration.

10.7 Operations

Operations in connection with the Special Use permits shall not be more objectionable to nearby properties by reason of noise, fumes, vibrations, or flashing lights, than would be the operation of any permitted use.

Findings of Fact:

1. The property is in a Suburban Residential 2 (SR2) Zoned District. The proposed business is allowed in the Suburban Residential 2 (SR2) District pursuant to Section 7.1.1.3 (3), which reads, *"Use permitted upon issuance of a special permit... Utility Installation, minor."*
2. The applicant included background information about their project, and stated that they have received \$2.8 million in grant funding and \$500k in loans to rebuild the wastewater treatment lagoon and water wells that contain arsenic

above regulatory levels. Currently the well has been replaced and the last stage is to establish the new wastewater treatment system and drainfield.

3. South Wind Water & Sewer District is the legal owner of the property where the utility installation would be located.
4. The property is not in violation of any Cascade County Zoning Regulations or any other County Ordinance.
5. Legal notice of the application and the public hearing was published in the *Great Falls Tribune* on January 14, 2018 and January 21, 2018. It was mailed to surrounding neighbors with certified letters on January 11, 2018. At the time of writing this report, staff has received no comments.
6. A Special Use Permit may be revoked by the Cascade County Zoning Board of Adjustment at any time a building(s) or use(s) is deemed to be in violation of the standards and zoning requirements under which the special use permit was issued. A violation of a special use permit will be handled as any other violation under Section 13 of these regulations.
7. Appeals of the Zoning Board of Adjustment decision shall follow the process outlined in Section 12 of the Cascade County Zoning Regulations.

Findings with Respect to the Analysis Criteria

Staff provides that the following analysis, findings and conclusion for each of the required criteria and conclusions provided under the controlling sections of the Zoning Regulations.

1. Conditions may be required that the Zoning Board of Adjustment determines if implemented, will mitigate potential conflicts in order to reach these conclusions.
2. The proposed development will not materially endanger the public health or safety.

Considerations:

- a. Traffic conditions in the vicinity, including the effect of additional traffic on streets and street intersections, and sight lines at street intersection and curb cuts.

Applicant: Increase in traffic may occur while drainfield is installed. No long term increase in traffic is anticipated for a drainfield.

Staff: Few additional trips will be generated as part of utility operations, there will likely be occasional visits to check on equipment.

- b. Provision of services and utilities including sewer, water, electrical, garbage collections, and fire protection.

Applicant: *The site will be utilized for a drainfield, no other utilities are planned for the property. Water supply, electrical, telecommunications, garbage and fire protection are provided through the Trailer Terrace Community.*

Staff: This site will be part of a system that replaces an existing, hazardous, wastewater treatment system. Fire protection services will be provided by the City of Great Falls.

- c. Soil erosion and sedimentation.

Applicant: *Stormwater provisions will be provided by the general contractor for installation of the drainfield system. Project specifications require the contractor to follow regulations for adequate stormwater provisions.*

Staff: The applicants are required by contract to obtain a general discharge permit from the Department of Environmental Quality.

- d. Protection of public, community, or private water supplies, including possible adverse effects on surface waters or groundwater.

Applicant: *A groundwater discharge permit has been applied for and approved by MT DEQ. The installed wastewater system will improve the wastewater system from a leaking lagoon system to a wastewater treatment plant and drainfield system.*

Staff: The site is part of a project that is actively improving the water quality and sanitation of nearby residents and will remove a failing lagoon that exceeds regulatory standards for arsenic.

- 3. The proposed development is a public necessity, or will not substantially impact the value of adjoining property.

Considerations:

- a. The relationship of the proposed use and the character of the development to surrounding uses and development, including possible conflicts between them and how these conflicts will be resolved.

Applicant: The proposed drainfield is a public necessity for the South Wind County Water and Sewer District. Surrounding properties are subdivided, and include the mobile home park, single family homes, open pasture, commercial and industrial (salvage yard).

Staff: The drainfield will be in an area with pastures and other open space, and will not be noticeable to the casual observer.

- b. Whether the proposed development is so necessary to the public health, safety, and general welfare of the community or county as whole, to justify it regardless of its impact on the value of adjoining property.

Applicant: Yes, the project will replace a severely dilapidated sewer lagoon that is known to be leaking untreated sewage to the local aquifer. The new wastewater treatment plant and drainfield will bring the system to meet current MT DEQ standards.

Staff: The existing water and sewer infrastructure has been identified as substandard and merits replacement. The existing system is actively detrimental to public health and the replacement seeks to remedy this.

4. The proposed development will be in harmony with the area in which it is located.

Considerations:

- a. The relationship of the proposed use and the character of development to surrounding uses and development, including possible conflicts between them and how these conflicts will be resolved.

Applicant: The drainfield is in an area of several zones, several single family homes, open pastures, mobile home site, commercial and a salvage yard.

Staff: There are a wide variety of land uses in the vicinity of the proposed project, and it is unlikely that an area that will be perceived as open space will create any conflicts, and will likely be more appealing than the existing lagoons.

5. The proposed development will be consistent with the Cascade County Growth Policy.

Considerations:

- a. Consistency with the growth policy objectives for the various planning areas, its definitions of the various land use classifications and activity centers, and its location standards.

Goal 1: Sustain and strengthen the economic well-being of Cascade County's citizens.

- A. *Stimulate the retention and expansion of existing businesses, new businesses, value-added businesses, wholesale and retail businesses, and industries including agriculture, mining, manufacturing/processing and forest products.*

Applicant: Not Applicable. The drainfield installation will improve South Wind sewer but will not stimulate business.

Staff: This project will have a negligible impact on local businesses.

- B. *Stabilize and diversify the county's tax base by encouraging the sustainable use of its natural resources.*

Applicant: The project will install a drainfield which will improve the groundwater and surface quality downgradient from the District.

Staff: The proposed project will enhance water quality in the area and promote conservation of this resource.

- C. *Identify and pursue primary business development that complements existing business, which is compatible with communities, and utilizes available assets. Identify and pursue targeted business development opportunities to include, but not limited to, manufacturing/heavy industry, telecommunications, and youth/social services.*

Applicant: The wastewater treatment drainfield does not pursue primary business development but does complement services to one business location in the mobile home park.

Staff: This project could potentially service one small business in the mobile home district, which is currently closed and vacant, but will otherwise have virtually no impact on business development in the area.

- D. *Promote the development of cultural resources and tourism to broaden Cascade County's economic base.*

Applicant: Not Applicable. The proposed drainfield does not necessarily improve cultural resources or tourism, however, improved housing with

proper public utilities will likely improve economic tax base (taxable value of District).

Staff: This project will have no negative impact on the County's cultural resources or tourism.

- E. Foster and stimulate well-planned entrepreneurship among the county's citizenry.

Applicant: Not Applicable. The drainfield project does not stimulate entrepreneurship necessarily but does allow adequate public services to home in the community.

Staff: This will have no negative impact on entrepreneurship opportunities in the County.

- F. Promote a strong local business environment. Encourage and strengthen business support mechanisms such as chambers of commerce, development organizations and business roundtable organizations.

Applicant: Not Applicable. The project will support one business location in the mobile home park.

Staff: This project will have no negative impact on the business environment of the County.

- G. Improve local trade capture for Cascade County businesses. Promote local shopping as well as well-planned businesses and new businesses.

Applicant: Not Applicable. The project does not promote local shopping but does complement one business in the mobile home park.

Staff: This project will have no negative impact on existing commerce or future commercial plans.

- H. Network with and support other economic development efforts in the region and statewide, in recognition of Cascade County's interdependence with other communities and to leverage available local resources.

Applicant: The project is bringing State and Federal funding to Cascade County to support economic activities in the County. Local funding is being leveraged with the millions of dollars of state and federal funding.

Staff: This project has received grants at the federal, state and county levels to rehabilitate the local environment and develop a safer and cleaner means of water use and wastewater disposal.

- I. *Encourage the growth of the agricultural economy.*

Applicant: The project provides affordable homes for individuals that work in a multitude of industries including agriculture.

Staff: This project will have no direct impact on the county's agriculture, and the parcel has not been used for agricultural production, therefore it will not negatively impact the growth of the agricultural economy. Residents who benefit from the project could potentially work in agriculture, but this is not a given.

- J. *Stimulate the growth of the economy by encouraging the use of alternate methods of energy production, including wind energy.*

Applicant: Not applicable. The project will not provide alternative energy production.

Staff: This project will have no negative impact on the growth of renewable or alternative energy sources.

GOAL 2: Protect and maintain Cascade County's rural character and the community's historic relationship with the natural resource development.

Objectives:

- A. *Foster the continuance of agriculture and forestry in recognition of their economic contribution and the intrinsic natural beauty of grazing areas, farmlands and forests.*

Applicant: The project continues the use of properties already subdivided preserving the areas for agriculture purposes.

Staff: The project will maintain existing agricultural land and will improve the quality of the water for use in irrigation and drinking.

- B. *Preserve Cascade County's scenic beauty and conserve its forests, rangelands and streams, with their abundant wildlife and good fisheries.*

Applicant: The proposed drainfield will be installed below grade and will not be noticeable once the grass vegetation has been regrown. Therefore, this project will conserve the area and provide adequate wastewater treatment for an existing land use.

Staff: The project will barely be noticeable from the surrounding area, and will appear as open space.

- C. *Preserve Cascade County's open space setting by encouraging new development to locate near existing towns and rural settlements and by discouraging poorly designed, land subdivisions and commercial development.*

Applicant: This project is proposed near Great Falls in an already subdivided area, preserving other open space areas.

Staff: The project is in close proximity to the area that it will be servicing. Additionally, it will be built below-grade, which will ultimately appear as open space.

- D. *Assure clean air, clean water, a healthful environment and good community appearance.*

Applicant: The wastewater treatment project will provide clean air and clean water in the area. Currently, residents are smelling raw sewage from an aged, leaking and poorly constructed sewer lagoon. The lagoon is leaking sewage to the groundwater and will be discontinued with this project. Wastewater treatment will meet discharge permit requirements.

Staff: The goal of this project is to remove an existing open air sewage lagoon and contaminated wells, and replace it with a system that will, quite literally, assure clean air and water for the residents of Trailer Terrace. Additionally, surrounding landowners will benefit from the removal of toxic lagoons that are leaching arsenic into the soil and diminishing air quality.

- E. *Support the development of natural resources including but not limited to timber, mining, oil and gas production, and renewable energy production.*

Applicant: Not Applicable. The project does not support development of natural resources but does propose improvement in the condition.

Staff: This project will have no negative impact on the development of natural resources in the county.

- F. *Continue to work with federal and state agencies to redevelop properties within Cascade County which are currently undergoing Superfund and Brownfields process.*

Applicant: This project has been coordinated with Local, Neighborworks, County, State and Federal agencies to improve the mobile home community for residents and provide safe water and sewer to residents of the County.

Staff: *The proposed location of this project has not been identified as a superfund or brownfields site, however the project has received grant and loan money for redevelopment due to its toxicity. While this doesn't specifically fit the definition of this goal, Staff believes that the nature of this project fits the spirit of the text.*

GOAL 3: Maintain Agricultural economy

A. Protect the most productive soil types.

Applicant: *The drainfield installation will utilize property already subdivided and not in agricultural production. Soil types are acceptable to a drainfield purpose.*

Staff: *According to the USDA Web Soil Survey, 62.6 % of the proposed site for the drainfield is classified as 6e soils, meaning that they have severe limitations that make them generally unsuitable for cultivation and that restrict their use mainly to pasture, rangeland, forestland, or wildlife habitat. Roughly one acre, or 37.4 %, of the site is classified as farmland of statewide importance, however this land has never been cultivated for*

B. Continue to protect soils against erosion.

Applicant: *Storm water protection and erosion control are provisions in the project specifications and the general contractor will follow SWPP regulations and guidelines for the project.*

Staff: *The contractor is required to obtain a general discharge permit from the Department of Environmental Quality and once the drainfield has been developed, vegetation will regrow at the site preventing erosion.*

C. Protect the floodplain from non-agricultural development.

Applicant: *Project is not located in the flood plain.*

Staff: *The proposed site is located in Zone X, Area of Minimal Flood Hazard, according to the FEMA National Flood Hazard Layer.*

D. Support the development of value-added agricultural industry in Cascade County utilizing the products from the regional area.

Applicant: *The project provides improvements to single family housing in the County, which may assist the industry with housing.*

Staff: *This project will have no negative impact on the development of value-added agricultural industry in the county.*

GOAL 4: Retain the presence of the US Military in Cascade County.

Objectives:

A. Encourage the federal congressional delegation to actively support maintaining the current mission status at a minimum.

Applicant: *This project does not affect the military facilities in the County, it is not adjacent to these facilities or within any setbacks.*

B. Promote the location of additional military missions in Cascade County.

Applicant: *Not Applicable. The project does not affect the additional military missions in the County.*

C. Encourage the reactivation of the runway at Malmstrom Air Force Base for fixed wing operations.

Applicant: *Not Applicable. The project does not affect the additional military missions in the County.*

D. Refer to the Joint Land Use Study for resolving conflicts and promoting mission compatible development.

Applicant: *Not Applicable. The project does not affect the additional military missions in the County.*

Staff: *The proposed use in this location should have no negative impact on retaining the presence of the US military in Cascade County.*

GOAL 5: Preserve and enhance the rural, friendly and independent lifestyle currently enjoyed by Cascade County's citizens.

Objectives:

A. Maintain Cascade County's citizens independent lifestyle and minimize local governmental intervention, to the extent possible, consistent with the requirements of a continually evolving economy and constantly changing population.

Applicant: *The project does allow the citizens in their independent lifestyle with an improved public sewer system.*

Staff: This project will enhance the quality of life of residents in the Trailer Terrace Community by providing cleaner water and eliminating the need for an open-air sewage lagoon.

B. Preserve and promote Cascade County's rich cultural heritage, rooted in natural resource development and reflected in its numerous cultural/historic sites and archaeological areas.

Applicant: The project does preserve the County's heritage by installation of the drainfield in an already subdivided area.

Staff: This site is located in an already subdivided, and relatively developed area. It is unlikely that there is anything of historic significance at this site.

C. Promote fire prevention measures throughout the county, giving special emphasis to the extreme fire hazards present at the wild land/urban interface.

Applicant: Not Applicable. The project proposes the installation of a drainfield.

Staff: This project will ultimately have an impact no different than any other located at/near the wildland/urban interface. The property is located within the Great Falls Fire Department's jurisdiction.

D. Encourage the continued development of educational programs and facilities, recreational opportunities and spaces and health services for all county residents.

Applicant: Not Applicable. The drainfield project does improve the local groundwater and surface water allowing citizens to utilize these

Staff: This project will have no impact on educational programs or facilities, recreational opportunities and spaces, and will improve the health of the citizens benefitting from the new system.

- b. Consistency with the municipal and joint land use plans incorporated by the Growth Policy.

Applicant: The project generally is consistent with Growth Policy. The Special Use Permit is needed to comply with zoning on the parcel where the drainfield will be located.

This Special Use Permit is consistent with the municipal and joint land use plans incorporated by the Growth Policy.

Section 10.7 Operations

Operations in connection with the Special Use permits shall not be more objectionable to nearby properties by reason of noise, fumes, vibrations, or flashing lights, than would be the operation of any permitted use.

From the application information submitted, this operation would not be more objectionable to nearby properties by reason of noise, fumes, vibrations or flashing lights. The existing use of an open air sewage lagoon is considerably more objectionable than a below-grade drainfield will be, and the visibility of this installation will be virtually non-existent once work has been completed and vegetation has regrown. Staff feels that the benefits of this project far outweigh any potential drawbacks, as providing clean water and proper wastewater treatment is beneficial to both the citizens of Cascade County, as well as the environment.

Motions:

The following motions are provided for the board's consideration:

- A. Alternative 1: Move the Special Use Permit to allow the minor utility installation for a public wastewater system on the property be **denied** due to (ZBOA member proposing denial must delineate legal reason that the application be denied); or
- B. Alternative 2: Move the Board adopt the staff report and **approve** the Special Use Permit to allow the minor utility installation on the property, subject to the following conditions:
 - 1. The applicant obtains approval to install on site subsurface wastewater disposal from the Department of Environmental Quality,
 - 2. The applicant obtains any other required county, state, or federal permits and comply with regulations associated with any other permits.

Attachments:

- Special Use Permit Application, Operational Statement, Site plan.
- Websoil Survey, soil map and report
- Applicable Zoning Regulations, highlighted.

c: NCI Engineering